



DEPARTMENT OF THE NAVY  
BOARD FOR CORRECTION OF NAVAL RECORDS  
2 NAVY ANNEX  
WASHINGTON DC 20370-5100

LCC:ddj  
Docket No: 5373-00  
31 October 2000

[REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of title 10 of the United States Code, section 1552.

[REDACTED]

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 31 October 2000. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies. In addition, the Board considered the advisory opinion furnished by CMC memorandum 1040 CMT of 27 September 2000, a copy of which is attached.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice. In this connection, the Board substantially concurred with the comments contained in the advisory opinion. Accordingly, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER  
Executive Director

Enclosure



DEPARTMENT OF THE NAVY  
HEADQUARTERS UNITED STATES MARINE CORPS  
3280 RUSSELL ROAD  
QUANTICO, VIRGINIA 22134-5103

IN REPLY REFER TO:  
1040  
CMT  
27 Sep 2000

MEMORANDUM FOR THE EXECUTIVE DIRECTOR, BOARD FOR CORRECTION  
OF NAVAL RECORDS

Subj: ADVISORY OPINION IN THE CASE OF [REDACTED]  
[REDACTED]

Ref: (a) BCNR Docket #5373-00  
(b) MCO P1040R.35B

1. In response to reference (a), the following information is provided. Reference (b) provides guidance on assigning a date of rank to a Marine who is requesting an off-contract waiver. Specifically, if a Marine is "enlisting more than 12 months but less than 3 years after separation from the Marine Corps/MCR, the applicant will be reappointed to the grade held at time of separation. Date of rank for sergeants and above will be constructed by crediting one-half of prior service." Master Sergeant [REDACTED] fell off contract on 31 July 1998 from the Selected Marine Corps Reserve (SMCR) and did not request reenlistment into the SMCR until 5 October 1999. Master Sergeant [REDACTED] was approved for reenlistment on 4 November 1999 and was credited with one year, nine months time in grade, half of the difference between his date of separation and his previous date of rank. Master Sergeant [REDACTED] request to rejoin the Marine Corps Reserve, unfortunately, was not submitted in time to allow him to retain his previous date of rank.

2. The point of contact for this matter is Master Sergeant Hull at com1 (703) 784-9128 or DSN 784-9128.

  
P. J. MCCARTHY  
By direction